IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

C.R. No. 1773 of 2007

DATE OF DECISION:03.04.2007

Ram Partap .....Petitioner

Versus

Punjab Wakf Board, Ambala Cantt & Ors. .....Respondents

CORAM:- HON'BLE MR. JUSTICE SATISH KUMAR MITTAL

Present:- Shri Pawan Malik, Advocate
for Shri P.S. Jammu, Advocate
for the petitioner.

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The petitioner has filed this revision petition under Article 227 of the Constitution of India for setting aside the order dated 19.2.2007, whereby, the plaint of the petitioner has been rejected under Order 7 Rule 11 CPC while observing as under:-

> "Notice under Section 89 of Wakf Act cannot be exempted by the Court. This provision is not analogus to Section 80 of Civil Procedure Code because under Section 80(2) of CPC, there is a provision for exemption of the notice but no such provision is there in Wakf Act, 1995. Therefore, the plaintiff cannot be permitted to maintain the suit without serving a notice under Section 89 of the Wakf Act. The authority reported in 1998 (3) Recent Civil Reports 191 cited by the learned counsel for the plaintiff does not help the plaintiff.
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> The net result of my aforesaid discussion is that the application for exemption of notice under Section 89 of the Wakf Act moved by the plaintiff merits dismissal and the same is hereby dismissed. The application under Order 7 Rule 11

read with Section 151 of CPC filed by defendants No.1 and 2 succeeds and the same is hereby allowed. Consequently, the plaint of the suit of the plaintiff is hereby rejected for want of notice under Section 89 of Wakf Act, 195."

I have heard counsel for the petitioner.

Undisputedly, before filing the suit for permanent injunction against the Punjab Wakf Board, and the persons claiming through Board, no notice has been issued to the Board.

After hearing counsel for the petitioner and in view of the law laid down by this Court in (2000) 1 PLR 92 titled as **Arya Prithinidhi Sabha (Punjab) Jullundur Now Haryana Sirsa** Vs. **Punjab Wakf Board, Ambala Cantt and others** , I do not find any ground to interfere in the aforesaid order.

Dismissed.

April 03, 2007 **(SATISH KUMAR MITTAL)**
pooja **JUDGE**